

STATE OF ILLINOIS       )  
                                  )  
COUNTY OF C O O K       )       SS

**RECEIVED**  
AUG 19 2002

Illinois Commerce Commission  
RAIL SAFETY SECTION

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF ILLINOIS, for an on behalf  
of the People of the State of Illinois,

-       Petitioner

vs.

CONSOLIDATED RAIL CORPORATION, a  
Pennsylvania corporation (which acquired title  
as Michigan Central Railroad); NORFOLK &  
SOUTHERN RAILWAY COMPANY, a Virginia  
corporation; and

UNKNOWN OWNERS

-       Respondents

Petition for approval of the taking or damaging  
of certain properties owned by a public utility in  
Cook County, Illinois by exercising the right of  
eminent domain

Case No.    702-0085

Parcel No. OET0003TE-A  
             OET0003TE-B

**PETITION FOR APPROVAL TO TAKE PROPERTY**

TO THE ILLINOIS COMMERCE COMMISSION:

Petitioner, THE DEPARTMENT OF TRANSPORTATION of the State of Illinois, a  
Department of the State Government of Illinois, by JAMES E. RYAN, Attorney General of the State  
of Illinois, and Douglas G. Felder, Special Assistant Attorney General, pursuant to Section 102 of  
the Eminent Domain Act of Illinois (735 ILCS 5/7-102) (West 2000), requests approval of the  
Illinois Commerce Commission for the taking and/or damaging of certain properties owned or in

which an interest is claimed by CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (which acquired title as Michigan Central Railroad) and NORFOLK & SOUTHERN RAILWAY COMPANY, a Virginia corporation (collectively the "Railroad"), a public utility subject to the jurisdiction of the ILLINOIS COMMERCE COMMISSION.

1 Under Articles 2 and 4 of the Illinois Highway Code, (605 ILCS 5/2-101; 5/2-220; and, §§5/4-101 through 5/4-512, West 2000), Petitioner is engaged in the reconstruction and improvement of FAP 358 (Torrence Avenue) in Cook County, Illinois.

2 Under the Illinois Highway Code, FAP 358 is a part of and included in the State Highway System.

3 Section 4-501 of the said Illinois Highway Code (605 ILCS 5/4-501, West 2000) provides:

"The Department, or its name, or any county may acquire the fee simple title, or such lesser interest as may be desired, to any land, rights or other property necessary for the construction, maintenance or operation of State highways, or necessary for locating, relocating, extending, widening or straightening any State highway, or necessary for locating, relocating, extending, widening or straightening an existing street or for laying out, establishing or opening a new street within the corporate limits of any municipality which has been designated by the Department as a street to form a part of or to connect with a State highway leading up to the corporate limits of such municipality, or necessary for any other purpose or use contemplated by this Code by purchase or by the exercise of the right of eminent domain under the eminent domain laws of this State and the Department shall not be required, in any case, to furnish bond."

4 The improvement of FAP 358 (Torrence Avenue) is a public improvement project. The improvement project constitutes a public purpose, namely reconstruction and improvement of the roadway, structures and intersections at or adjacent to FAP 358 (Torrence Avenue) in Cook County.

5 The Railroad is subject to the jurisdiction of the Commission.

6       The Railroad is title holder to or claims some right or interest in certain real property, said property being located in Cook County, the legal description of which is attached hereto and marked as Exhibit A. This real property is located at or adjacent to FAP 358 (Torrence Avenue) in Cook County and the Petitioner has deemed it necessary to improve the roadways, structures and intersections at and along FAP 358 (Torrence Avenue) in Cook County, and improve vehicular traffic and safety of the motoring public. A copy of the Department's Plat of Highways depicting the property sought to be acquired by the Petitioner is shown on Exhibit B attached hereto.

7       Petitioner has been authorized to acquire a temporary construction easement for three years or the completion of construction, whichever occurs first, as to Parcel OET0003TE-A and B legally described in Exhibit A, and it is necessary for Petitioner to acquire said property for the above-described highway reconstruction and improvement of the structures at and along FAP 358 (Torrence Avenue) in Cook County for the use of the People of the State of Illinois.

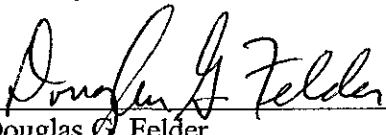
8       The terms of the compensation to be paid by the Petitioner for the property hereinafter described cannot be agreed upon between the Petitioner and the Railroad although Petitioner has attempted to effect such an agreement, or the Petitioner has not otherwise been able to acquire title to the property. Petitioner, therefore, is authorized and desires to proceed to acquire the property under the eminent domain laws of this State.

9       Section 7-102 of the Code of Civil Procedure (735 ILCS 5/7-102) requires Petitioner to obtain approval of the Commission prior to the taking of the Railroad's property described in Exhibit A or the damaging of any remainder property.

WHEREFORE, Petitioner, THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, requests the Commission to approve the taking or damaging of the above described real property of the Railroad by the exercise of the right of eminent domain.

THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF ILLINOIS, for and  
on behalf of the People of the State of Illinois

By: JAMES E. RYAN  
Attorney General of Illinois

By:   
\_\_\_\_\_  
Douglas G. Felder  
Special Assistant Attorney General

Douglas G. Felder  
Douglas G. Felder, P.C.  
Special Assistant Attorney General  
20 South Clark Street  
Suite 2000  
Chicago, Illinois 60603  
312/634-3509

**AFFIDAVIT OF SERVICE**

Douglas G. Felder, being first duly sworn, on oath, states that he served the foregoing Petition upon the following addresses at their respective addresses set forth:

**VIA CERTIFIED MAIL AND U.S. MAIL**

Illinois Commerce Commission  
527 East Capital  
Springfield, Illinois 62708  
(original and three copies)

Consolidated Rail Corporation  
c/o Registered Agent  
Illinois Corporation Service Company  
700 South Second Street  
Springfield, IL 62704

Consolidated Rail Corporation  
P.O. Box 8499  
Philadelphia, PA 19101  
Attention: Robert Dempsey

Norfolk & Southern Railway Company  
425 Holiday Drive  
Suite 200  
Pittsburgh, PA 15220  
Attention: Virginia Caso

by enclosing a copy of said Petition, together with Exhibits A and B to said Petition, in an envelope correctly addressed with sufficient first class postage affixed thereto, sealed and deposited said envelopes in the U.S. Mail Drop Box at 20 South Clark Street, Chicago, Illinois, before 5:00 p.m. on the 13<sup>th</sup> day of August, 2002.



SUBSCRIBED and SWORN to  
before me this 13<sup>th</sup> day of  
August 2002

  
Notary Public



**Exhibit A**

	Owner:	Consolidated Rail Corporation
	Route:	FAP 358 (Torrence Avenue)
	Section:	1111.1 B-1
	County:	Cook
	Job No.:	R-90-032-01
PIN: 29-01-500-002 (Pt.); 30-06-500-003 (Pt.)	Parcel:	0ET0003TEA
	Station:	20+93.20 -to- 22+05.70

#### LEGAL DESCRIPTION

That part of the 100 foot Right of Way of the Michigan Central Railroad (being now part of Consolidated Rail Corporation) lying in the east half of the Southeast Quarter of Section 1, Township 36 North, Range 14 East of the Third Principal Meridian described as follows:

Beginning at the southeast corner of Lot 15 in Block 5 in G. Frank Croissant's Riverside Drive Addition, being a subdivision in the east half of said Section 1, according to plat recorded December 3, 1924 as Document No. 8692933 (said corner being on the northerly right of way line of the aforesaid Michigan Central Railroad); thence on an assumed bearing of South 0 degrees 51 minutes 01 seconds East along a line 37.50 feet west of and parallel with the east line of the Southeast Quarter of said Section 1 a distance of 112.50 feet to a point on the southerly right of way line of said Michigan Central Railroad; thence North 63 degrees 35 minutes 01 seconds West along the said southerly right of way line a distance of 33.75 feet to a point on a line 67.50 feet west of and parallel with the east line of the Southeast Quarter of said Section 1; thence North 0 degrees 51 minutes 01 seconds West along the last described parallel line a distance of 112.50 feet to a point on aforesaid northerly right of way line of the Michigan Central Railroad; thence South 63 degrees 35 minutes 01 seconds East along the said northerly right of way line a distance of 33.75 feet to the point of beginning, in Cook County, Illinois.

Containing 3,375 sq. ft. or 0.077 Acres more or less.

	Owner:	Consolidated Rail Corporation
	Route:	FAP 358 (Torrence Avenue)
	Section:	1111.1 B-1
	County:	Cook
	Job No.:	R-90-032-01
PIN: 29-01-500-002 (Pt.); 30-06-500-003 (Pt.)	Parcel:	0ET0003TEB
	Station:	20+23.62 -to- 21+36.12

#### LEGAL DESCRIPTION

That part of the 100 foot Right of Way of the Michigan Central Railroad (being now part of Consolidated Rail Corporation) lying in the west half of the Southeast Quarter of Section 6, Township 36 North, Range 15 East of the Third Principal Meridian described as follows:

Beginning at the southwest corner of Lot 16 in Block 4 in Michigan Central Addition, being a subdivision in the Northwest Quarter of the Southwest Quarter of said Section 6, according to plat recorded February 5, 1925 as Document No. 8765013 (said corner being on the northerly right of way line of aforesaid Michigan Central Railroad; thence on an assumed bearing of South 0 degrees 51 minutes 01 seconds East along a line 37.50 feet east of and parallel with the west line of the Southwest Quarter of said Section 6 a distance of 112.50 feet to a point on the southerly right of way line of said Michigan Central Railroad; thence South 63 degrees 35 minutes 01 seconds East along said southerly right of way line a distance of 33.75 feet to a point on a line 67.50 feet east of and parallel with the west line of the Southeast Quarter of aforesaid Section 6; thence North 0 degrees 51 minutes 01 seconds West along the last described parallel line a distance of 112.50 feet to a point on aforesaid northerly right of way line of the Michigan Central Railroad; thence North 63 degrees 35 minutes 01 seconds West along said northerly right of way line a distance of 33.75 feet to the point of beginning, in Cook County, Illinois.

Containing 3,375 Square Feet or 0.077 Acres more or less.



**Exhibit B**

PARCEL NO.	OWNER	TOTAL HOLDING	PART TAKEN	REMAINDER	PREVIOUS DEDICATION	EASEMENT	EASEMENT PURPOSE	TAX NUMBER(S)	ACQUIRED BY
		(ACRES) SQ.FEET	(ACRES) SQ.FEET	(ACRES) SQ.FEET	(ACRES) SQ.FEET	(ACRES) SQ.FEET			
ET0001TEA	INDIANA HARBOR BELT RAILROAD COMPANY	N/A	N/A	N/A	N/A	(0.057)A	TEMPORARY CONSTRUCTION	29-01-502-002 30-06-503-001	
ET0001TEB						(0.062)B			
ET0002TEA	CSX TRANSPORTATION, INC.	N/A	N/A	N/A	N/A	(0.058)A	TEMPORARY CONSTRUCTION	29-01-501-004 30-06-501-001 (PL) <sub>F</sub>	
ET0002TEB						(0.058)B			
ET0003TEA	CONSOLIDATED RAIL CORPORATION	N/A	N/A	N/A	N/A	(0.077)A	TEMPORARY CONSTRUCTION	29-01-500-002 (PL) 30-06-500-003 (PL)	
ET0003TEB						(0.077)B			